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Public Disclosure Commission

October 5, 2001

Ms. Vicki Rippie
Members of the Public Disclosure Commission
711 Capitol Way, Room 206
P.O. Box 40908
Olympia, WA 98507

RE: Tacoma School District PDC Case No. 01-199

Dear Ms. Rippie and Members of the Public Disclosure Commission:

Washington Education Association-Political Action Committee (WEA-PAC) is submitting this letter in lieu of filing an Amicus Brief in the above-referenced matter. WEA-PAC wishes to express its concerns regarding the above-referenced enforcement matter and the implementation of RCW 42.17.680(4).

WEA-PAC must make every effort to protect the First Amendment freedom of association rights as well as the privacy rights of its members. While RCW 42.17.680(4) requires employers to keep on site the forms authorizing payroll deduction to a political committee, it is not appropriate for the Commission to enforce an interpretation of the statute which would require an employer to release the names, home addresses, phone numbers or Social Security numbers of the individuals signing those forms.

Such an interpretation would infringe on WEA-PAC members' rights to privacy as well as their rights to freedom of association. The Commission can preserve the constitutionality of RCW 42.17.680(4) by enforcing it in a means that is consistent with the Public Records Act. RCW 42.17.680(4) is subject to the exemptions to the Public Records Act contained in RCW 42.17.310 as well as to the five day response period described in RCW 42.17.320. Specifically, RCW 42.17.310(b) exempts personal information in files maintained by public employers related to public employees to the extent that disclosure would violate their right to privacy. Thus, an employer who receives notice that an individual wants to inspect the authorization cards should be allowed to provide the information to the requestor after having five days to redact private information such as names, home addresses, phone numbers and social security numbers. There are less intrusive means to ensure that the authorizations exist for the persons for whom deductions are made without requiring the release of the names of the individual contributors to the political committee.

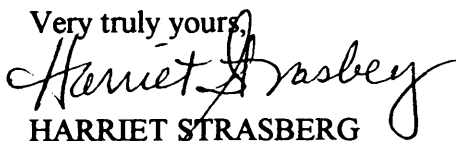
The U.S. Ct of Appeals for the First Circuit found a similar statute in Rhode Island to be unconstitutional when it viewed the statute in light of the entire statutory scheme. See

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Vote Choice Inc. v. DiStefano 4 F.3d 26 (1993). The Rhode Island statute, known as the first-dollar disclosure requirement, required political action committees to disclose the identity of those giving even one dollar to a political committee. However candidates were only required to disclose the identities of those contributors who donated \$100 or more. The court found that the disparity between individuals, who could contribute directly up to \$100 without disclosure, and, the disclosure required for those persons who chose to pool money by making contributions to PACs unconstitutionally burdened the rights of individuals to come together for political purposes by falling exclusively on those who chose to exercise their right to join together, leaving individual speakers unburdened. Additionally, since the measure hindered group efforts to make independent expenditures in support of candidates or ballot initiatives, it was particularly vulnerable to constitutional attack.

Like the statute in Rhode Island, RCW 42.17.680(4) presents a disclosure disparity between those who make contributions to PACs via payroll deduction and those who contribute directly to candidates or ballot measure political committees. Pursuant to RCW 42.17.090, there is no disclosure requirement for PACs to report contributions received that total under \$25. For the years that WEA-PAC collected contributions via payroll deduction, most WEA-PAC contributors contributed \$12 each year. If the Commission enforces RCW 42.17.680(4) by requiring employers to disclose the names and other personal information of all persons who sign annual authorization forms, the rights of these individuals to pool their resources will be infringed. Such an interpretation of RCW 42.17.680(4) will burden the rights of individuals to come together for political purposes, and while doing so, leaves unburdened individual contributors of less than \$25.

Thank you for your consideration of these matters.

Very truly yours,

HARRIET STRASBERG

cc: Michael Gawley
Susan Schreurs
Charles Hasse
Aimee S. Iverson
Nancy Krier
Neil Gorrell